

STATE OF HAWAII
HAWAII LABOR RELATIONS BOARD

In the Matter of)	CASE NO. OSH 2003-2
VERNON Y. YAMADA,)	ORDER NO. 100
Complainant,)	ORDER DENYING RECONSIDERATION
vs.)	OR REOPENING OF DECISION NO. 5
FOUR SEASONS RESORT HUALALAI,)	
Respondent,)	
and)	
DIRECTOR, DEPARTMENT OF LABOR)	
AND INDUSTRIAL RELATIONS,)	
Appellee.)	

ORDER DENYING RECONSIDERATION OR REOPENING OF DECISION NO. 5

On May 17, 2004, Complainant VERNON Y. YAMADA (YAMADA) filed for reconsideration or reopening of Decision No. 5 issued by the Hawaii Labor Relations Board (Board) on April 21, 2004. YAMADA disputed the Board's findings and requested reconsideration of the Board's decision to clarify and address the "many issues" brought out at the hearing. YAMADA alleges, inter alia, there are false documents in his file showing disciplinary action which did not occur or documenting events which did not happen. YAMADA also disputes documents submitted in evidence before the Board and the Board's reliance on certain documents.

On May 18, 2004, Respondent FOUR SEASONS RESORT HUALALAI (FSRH) filed a memorandum in opposition to YAMADA's request to reconsider or reopen Decision No. 5. FSRH argued that YAMADA attempts to re-litigate old matters and raise arguments and evidence that could and should have been raised during the earlier hearing. FSRH contends that YAMADA does not present new evidence or arguments and accordingly, his request should be denied, citing Ass'n of Apartment Owners of Wailea Elua v. Wailea Resort Co., Ltd., 100 Hawai'i 97, 58 P.3d 608 (2002). In that case, the Supreme Court stated with respect to a motion for reconsideration:

As this court has often stated, "the purpose of a motion for reconsideration is to allow the parties to present new evidence

and/or arguments that could not have been presented during the earlier adjudicated motion.” Reconsideration is not a device to relitigate old matters or to raise arguments or evidence that could and should have been brought during the earlier proceeding. Sousaris v. Miller, 92 Hawai’i 505, 513, 993 P.2d 539, 547 (2000) (internal brackets and citations omitted).

Id., at 110.

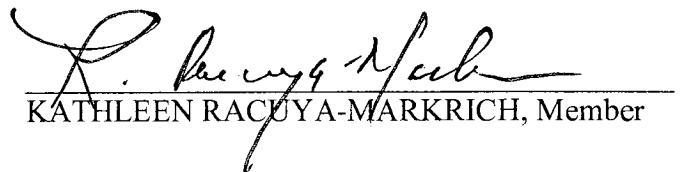
After reviewing the record and the submission of the parties, the Board finds that YAMADA seeks to relitigate old matters or raise arguments which should have been brought during the hearing before the Board. Accordingly, the Board hereby denies reconsideration or reopening of Decision No. 5.

DATED: Honolulu, Hawaii, June 3, 2004.

HAWAII LABOR RELATIONS BOARD


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RACUYA-MARKRICH, Member

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